

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 25765

PERMIT 17941

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT

WHEREAS:

1. Permit 17941 was issued to William B. Berglund and Barbara L. Berglund on July 30, 1980 pursuant to Application 25765.
2. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
3. The permittee has proceeded with diligence and good cause has been shown for said extension of time.
4. Permit Condition 13 pertaining to the continuing authority of the Board should be updated to conform to Standard Permit Term 12 as contained in Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 9 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 31, 1990

(0000008)

2. Condition 10 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 1992

(0000009)

3. Condition 13 of the permit be amended to read:

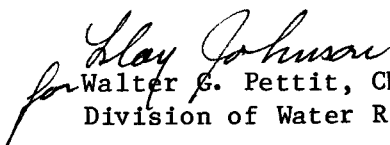
Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated: OCTOBER 25 1988


for Walter G. Pettit, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 25765

PERMIT 17941

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE AND AMENDING THE PERMIT

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
2. The permittee has proceeded with diligence and good cause has been shown for extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. A new development schedule is approved as follows:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 1, 1986

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 1, 1987

2. Paragraph 13 of this permit is deleted. A new Paragraph 13 is added as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity

limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation. The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

Dated: JUNE 4 1985

Raymond Walsh

Raymond Walsh, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 17941

Application 25765 of William R. Berglund and Barbara L. Berglund
150 Camino Dorado, P. O. Box 2089, Napa, California, 94558

filed on June 20, 1978, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

(1) Unnamed Stream

Burton Creek

(2) Burton Creek

Maxwell Creek thence

Pope Creek thence

Putah Creek thence

Yolo Bypass

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
Storage and Rediversion - Unnamed Reservoir					
(1) N750 ft and E1710 ft from SW Corner of Projected Section 21	SE 1/4 of SW 1/4	21	9N	5W	MD
Diversion to Offstream Storage					
(2) N2520 ft and E3640 ft from SW Corner of Projected Section 21	SW 1/4 of NE 1/4	21	9N	5W	MD

County of Napa

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Heat Protection						
Frost Protection						
Irrigation	NE 1/4 of SW 1/4	21	9N	5W	MD	11
	SE 1/4 of NW 1/4	21	9N	5W	MD	27
	NE 1/4 of NW 1/4	21	9N	5W	MD	9
	NW 1/4 of SE 1/4	21	9N	5W	MD	7
	SW 1/4 of NE 1/4	21	9N	5W	MD	29
	NW 1/4 of NE 1/4	21	9N	5W	MD	17
					TOTAL	100

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 200 acre-feet per annum to be collected from November 1 of each year to May 15 of the succeeding year as follows: 100 acre-feet per annum in the unnamed reservoir, and replenishment of 100 acre-feet per annum. (0000005) 58

6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (0000005) 59

7. The maximum rate of diversion to offstream storage shall not exceed 5 cubic feet per second. (0000005) 59

8. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

9. Construction work shall be completed on or before December 1, 1983. (0000008)

10. Complete application of the water to the proposed use shall be made on or before December 1, 1984. (0000009)


11. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

12. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

13. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation. (0000012)

14. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (0000013)



(1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

15. The State Water Resources Control Board reserves jurisdiction over this permit to impose any appropriate conditions at some future date to conform the permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

16. Permittee shall install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit may be released. (0050043)

17. If the storage dam will be of such size as to be within the jurisdiction of the Department of Water Resources as to safety, construction shall not be commenced until the Department has approved plans and specification. (0360048)

18. In accordance with the Requirements of Water Code Section 1393, permittee shall clear the area covered by the proposed reservoir enlargement of all structures, trees and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes. (0120050)

19. For the protection of fish and wildlife in Burton Creek, permittee shall during the period:

- (a) from December 1 through February 28 bypass a minimum of 4 cubic feet per second.
 - (b) from March 1 through April 30 bypass a minimum of 1 cubic foot per second.
 - (c) from May 1 through May 15 and November 1 to November 30 bypass a minimum of 0.5 cubic foot per second.
- The total streamflow shall be bypassed whenever it is less than the designated amount for that period. (0140060)

20. No water shall be diverted under this permit until permittee has installed a device on Burton Creek, satisfactory to the State Water Resources Control Board, which is capable of measuring the flows required by the conditions of this permit. Said measuring device shall be properly maintained. (0060062)

21. In accordance with Section 1603 and/or Section 6100 of the Fish and Game Code, no water shall be diverted under this permit from Burton Creek until the Department of Fish and Game has determined that measures necessary to protect fishlife have been incorporated into the plans and construction of such diversion. The construction, operation, or maintenance costs of any facility required pursuant to this provision shall be borne by the permittee. (0000063)

22. Permittee is hereby put on notice that there may be years when water collected to storage under this permit will not be within the reservation of water established for the watershed upstream from Lake Berryessa in Decision D 869. During such years, unless replacement water is provided on an exchange basis, permittee shall release water collected to storage under this permit during the preceding collection season at the maximum practical rate to flow into Lake Berryessa. (0220087)

23. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction permittee shall file a report pursuant to Water Code Section 13260 and shall comply with any waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Valley Region, or by the State Water Resources Control Board.

(0000100)

24. The total quantity of water diverted under this permit, together with that diverted under licensed application 15281, shall not exceed 200 acre-feet per annum.

(0000114)

25. The archeological sites Ca-Nap-21, Ca-Nap-387, Ca-Nap-389, and Ca-Nap-388 located in the reconnaissance report by Archeological Consulting and Research Services, Inc. shall be excluded from the proposed place of use (planned vineyards). These sites shall not be otherwise impacted by any developments related to the proposed water storage, distribution and use. Such impacts would include dams, dikes, storage locations, pipelines, canals or ditches, and any other surface of subsurface disturbance related to the proposed water use.

(0380500)

26. No water shall be diverted to storage under this permit at any time when such diversion will prevent Jack and Margaret E. Peters from obtaining water necessary for beneficial use under their valid prior water rights. This condition shall not be construed as in any way affecting the riparian claim of right or Permittee's lands or Permittee's right to divert water to storage under License 5806 (Application 15281).

(0000999)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: JULY 30 1980

Walter E. Peters
STATE WATER RESOURCES CONTROL BOARD
Chief, Division of Water Rights